

# **CITY COUNCIL AGENDA**

**AUGUST 31, 2004**

## **SYNOPSIS**

LINDA J. LE ZOTTE  
FORREST WILLIAMS  
CINDY CHAVEZ  
CHUCK REED  
NORA CAMPOS

DISTRICT 1  
DISTRICT 2  
DISTRICT 3  
DISTRICT 4  
DISTRICT 5

RON GONZALES MAYOR

KEN YEAGER  
TERRY O. GREGORY  
DAVID D. CORTESE  
JUDY CHIRCO  
PAT DANDO, VICE MAYOR

DISTRICT 6  
DISTRICT 7  
DISTRICT 8  
DISTRICT 9  
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Economic and Neighborhood Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Recreation and Cultural Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Aviation Services*** — Provide for the air transportation needs of the community and the region at levels that are acceptable to the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 10 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

1. **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item/s that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
2. When the Council reaches your item on the agenda, Mayor Ron Gonzales will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
3. Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
4. To assist you in tracking your speaking time, there are three lights located to the far right of the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

**The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.**

Agendas and Staff Reports for City Council items may be viewed on the Internet at [www.sanjoseca.gov/clerk/agenda.htm](http://www.sanjoseca.gov/clerk/agenda.htm)

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call 1 (408) 277-4424 or 1 (408) 998-5299 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**  
9:30 a.m. - Closed Session, Room 600, City Hall  
**Absent – Council Members: None.**  
  
1:30 p.m. - Regular Session, Council Chambers, City Hall  
**Absent – Council Members: None.**
- **Invocation (District 7)**  
**Father Kevin P. Joyce, Diocese of San José delivered a prayer.**
- **Pledge of Allegiance**  
**Mayor Gonzales led the Pledge of Allegiance.**
- **Orders of the Day**  
**The Orders of the Day and the Amended Agenda were approved.**

## **1 CEREMONIAL ITEMS**

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- 1.1 Presentation of a commendation to Father Kevin P. Joyce for his years of spiritual and community contributions as Pastor of St. Maria Goretti Church. (Gregory)  
(Rules Committee referral 8/25/04)  
**Mayor Gonzales and Council Member Gregory presented a commendation to Father Kevin P. Joyce for his years of community service.**

## **2 CONSENT CALENDAR**

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- 2.1 **Approval of Minutes.**  
**None.**

## 2 CONSENT CALENDAR

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### 2.2 Final adoption of ordinances.

- (a) ORD. NO. 27229 – Amends Title 8 of the San José Municipal Code to add a new Chapter 8.20 establishing an Emergency Communication System Support Fee and amending Chapter 4.80 of Title 4 to add a new Part 51 establishing the Emergency Communication System Support Fee Fund.

**Heard concurrently with Item 2.6.**

**Ordinance No. 27229 adopted.**

**Noes: Dando, Gregory, Reed.**

- (b) ORD. NO. 27231 – Amends Section 20.50.100 of Chapter 20.50 of Title 20 of the San José Municipal Code to allow additional uses in the Industrial Zoning Districts of the City.

**Ordinance No. 27231 adopted.**

- (c) ORD. NO. 27232 – Rezones certain real property situated on the west side of Masonic Drive, approximately 520 feet southerly of Canoas Garden Avenue, to A(PD) Planned Development Zoning District. PDC 04-010

**Ordinance No. 27232 adopted.**

- (d) ORD. NO. 27233 – Rezones certain real property situated on the east side of North Fourth Street, approximately 170 feet northerly of Washington Street. PDC 04-061

**Ordinance No. 27233 adopted.**

- (e) ORD. NO. 27234 - Rezones certain real property situated on the southwest corner of Silver Creek Road and Aborn Road to A(PD) Planned Development Zoning District. PDC 04-008

**Ordinance No. 27234 adopted.**

### 2.3 Approval of a continuation agreement for the Agriculture in Partnership Program.

**Recommendation:** Approval of a continuation agreement with Karin Grobe for technical assistance services for the Agriculture in Partnership Program, extending the term by twenty-four months from August 1, 2004 to August 1, 2006, and increasing the compensation by \$30,000, for a total amount not to exceed \$121,448. CEQA: Not a Project. (Environmental Services)

**Approved.**

### 2.4 Approval of a grant agreement with the San José Public Library Foundation.

**Recommendation:** Adoption of a resolution authorizing the City Manager to negotiate and execute a grant agreement with the San José Public Library Foundation through June 30, 2005, in an amount not to exceed \$200,000. CEQA: Not a Project. (Library)

**Resolution No. 72290 adopted.**

## 2 CONSENT CALENDAR

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### 2.5 Approval of fiscal actions for the Office of Traffic Safety DUI and Seat Belt Safety Program.

**Recommendation:**

- (a) Adoption of a resolution accepting the State of California, Office of Traffic Safety (OTS) 2004-2007 DUI and Seat Belt Safety Program grant in the amount of \$637,915, and authorizing the City Manager to execute the grant agreement and all related grant documents.

**Resolution No. 72291 adopted.**

- (b) Adoption of the following amendments to the annual appropriation ordinance and the annual funding sources resolution in the General Fund (Fund 001) for Fiscal Year 2004-05:

- (1) Establish an appropriation in the City-wide Expenses to the Police Department for the OTS 2004-07 DUI Seat Belt Safety Program Grant in the amount of \$429,162;
- (2) Increase Earned Revenue Estimate from the State by \$429,162.

CEQA: Not a Project. (Police/City Manager's Office)

**Ordinance No. 27237 adopted.**

**Resolution No. 72292 adopted.**

### 2.6 Approval of actions related to the State budget impact.

**Recommendation:** Approval of the following actions to implement the 2004-2005 General Fund Rebalancing Plan as approved by City Council on August 17, 2004.

- (a) Adoption of the following appropriation ordinance and funding sources resolution amendments in the General Fund:

- (1) Decrease the Property Tax Revenue estimate by \$11.1 million.
- (2) Decrease the Revenue from Money and Property revenue estimate by \$300,000.
- (3) Decrease the Compensation/State Budget Impact Contingency Plan Earmarked Reserve by \$2.0 million.
- (4) Establish a transfer to the General Fund from the Emergency Communication System Support Fee Fund in the amount of \$9.4 million.

**Ordinance No. 27238 adopted.**

**Resolution No. 72293 adopted.**

**Noes: Dando, Gregory, Reed.**

- (b) Adoption of the following appropriation ordinance and funding sources resolution amendments in the Emergency Communication System Support Fee Fund:

- (1) Establish an Emergency Communication System Support Fee revenue estimate in the amount of \$9.4 million.
- (2) Establish a transfer from the Emergency Communication System Support Fee Fund to the General Fund in the amount of \$9.4 million.

**Ordinance No. 27239 adopted.**

**Resolution No. 72294 adopted.**

**Noes: Dando, Gregory, Reed.**

## 2 CONSENT CALENDAR

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### 2.6 Approval of actions related to the State budget impact. (Cont'd)

- Recommendation:** Approval of the following actions to implement the 2004-2005 General Fund Rebalancing Plan as approved by City Council on August 17, 2004.
- (c) Adoption of a resolution amending the Schedule of Fees and Charges to establish a new Emergency Communication System Support Fee in the monthly amounts of \$1.75 per access line and \$13.13 per trunk line; with an annual cap on landline fees of \$20,000 per location; and a fee effective date of January 1, 2005.

**Resolution No. 72295 adopted.**

**Noes: Dando, Gregory, Reed.**

- (d) Adoption of a resolution implementing the rerouting of wireless 9-1-1 service from the State of California to the City of San José (“San José Wireless E9-1-1 Project”, pursuant to Public Utilities Code Section 2892) and authorizing the City Manager to negotiate and execute all documents necessary to complete the San José Wireless E9-1-1 Project.

(City Manager’s Office) [Referred from 8/17/04 – Item 3.5(c)(1) and (2)]

**Resolution No. 72296 adopted.**

**Noes: Dando, Gregory, Reed.**

**Staff was directed to return to Council before implementation with: (1) additional information from the carriers, and (2) an appeal or exemption process for small businesses, “hardship” situations, or un-utilized lines, (3) in addition, staff was directed to participate in the Santa Clara Cities Association forum in September, and to include business partners in the City’s next budget process.**

## 3 STRATEGIC SUPPORT SERVICES

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### 3.1 Report of the Study Session

**Mayor Gonzales, Chair**

**No Report.**

### 3.2 Report of the Rules Committee – August 18, 2004

**Vice Mayor Dando, Chair**

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting

- (b) City Council

- (1) Review August 31, 2004 Draft Agenda

**The Committee recommended approval of the August 31, 2004 agenda.**

### 3 STRATEGIC SUPPORT SERVICES

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#### 3.2 Report of the Rules Committee – August 18, 2004 (Cont'd.)

- (2) Add New Items to August 24, 2004 Amended Agenda
  - Mayor and Council Member Requests
  - City Manager Requests
  - City Attorney Requests
  - City Clerk Requests

**There were no additions or changes to the August 24, 2004 City Council agenda.**
- (3) List of Reports Outstanding

**The Committee noted and filed the City Manager's report listing four staff reports outstanding for the August 24, 2004 Council agenda.**
- (c) Legislative Update
  - (1) State
    - (a) Report on the 2004 League of California Cities Voting Delegate and Alternate at the Annual Business Meeting

**The Committee accepted the recommendation.**
    - (b) 2004 State Legislative Summary

**The Committee accepted the Legislative Summary. The Committee directed the Administration to obtain the signatures of the Mayor and City Council Members on letters of support or opposition, which are submitted to the State Legislature on behalf of the City.**
  - (2) Federal

**There was no report.**
- (d) Meeting Schedules

**There were none.**
- (e) The Public Record

**There were none.**
- (f) Appointment to Boards, Commissions and Committees

**There were none.**
- (g) Rules Committee Reviews, Recommendations and Approvals
  - (1) Request to place an audit of the McKean Youth Sports Facility on the City Auditor's workplan

**Dan Kennedy and Brad Bossomworth spoke in support of the project. The Committee recommended deferral of this item to next week's Rules Committee meeting.**

### 3 STRATEGIC SUPPORT SERVICES

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#### 3.2 Report of the Rules Committee – August 18, 2004 (Cont'd.)

- (h) Oral communications  
**None were presented.**
- (i) Adjournment  
**The meeting adjourned at 2:20 P.M.**

**The Rules Committee Report and Actions were accepted.**

#### 3.3 Report of the Making Government Work Better Committee – August 19, 2004 Council Member Campos, Chair

- (a) Investment Report  
**The Committee accepted the Staff report.**
- (b) City's Cellular Phone Program – Phase I (Lower Cost Vendor Options)  
**The Committee accepted the Staff report with the direction to bring back to the Committee in October a follow-up to today's report along with the scheduled report on cell phone usage.**
- (c) Airport Concessions Contracts – Phase II (Shuttle Port)  
**The Committee accepted the Staff report with the direction to provide the Committee with an informational memorandum along with the report that is going to the Airport.**
- (d) Transport Vehicle Audit Follow-up  
**Deferred until September.**
- (e) Oral petitions – **None.**
- (f) Adjournment  
**The Committee was adjourned at 2:45 P.M.**

**The Making Government Work Better Committee Report and Actions were accepted.**

#### 3.4 Approval to award a contract for the New City Hall Signage Project.

**Recommendation:** Report on bids and award of signage contract for the San José New City Hall Project to the lowest responsive bidder, Karman, Ltd., for the base bid and Add Alternate Nos. 10, 13, 15, and 17 in the amount of \$477,902, and approval of a contingency in the amount of \$48,000. CEQA: Resolution No. 68905, PP98-03-072. SNI: University. (Public Works)  
**Approved.**



### 3 STRATEGIC SUPPORT SERVICES

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#### 3.5 Accept the City Manager's weekly report on the process for a Converged Data Network and Telephony System for the New City Hall (NCH).

**Recommendation:** Accept the City Manager's weekly report on the process for a Converged Data Network and Telephony System for the New City Hall (NCH).

(Referred from 8/17/04 – Item 3.8)

**The Manager's Report was accepted.**

**Council approved a Memorandum from Mayor Gonzales and Vice Mayor Dando, dated August 31, 2004, requesting that the district attorney open an inquiry into the issues surrounding the City Hall VOIP contract.**

**City Attorney directed to return September 14<sup>th</sup> with the processes or options for an independent civil investigation.**

### 4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

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#### 4.1 Report of the Building Strong Neighborhoods Committee – August 16, 2004 Council Member Chavez, Chair

(a) Semi-Annual Airport Neighborhood Services Group (ANSG)

**The Committee accepted the Semi-Annual ANSG Report with the direction to include the following information in future reports:**

- Breakdown of noise hotline calls
- Percentage of categories that are customer concerns
- An evaluation of flight patterns and to send a copy of the TRACON letter regarding FAA flights to the Council offices
- Analysis of flights that habitually violate the curfew to see what corrective action can be taken
- Information on curfew fines levied and collected and analysis if a pattern of non-payment has been established

(b) Strong Neighborhoods Update

**The Committee accepted the Strong Neighborhoods Update and was approved by the Committee.**

(c) Neighborhood Development Center (NDC) Update

**Deferred until September.**

(d) Oral petitions – None.

(e) Adjournment

**The meeting adjourned at 2:05 P.M.**

**The Building Strong Neighborhoods Committee Report and Actions were accepted.**

## **4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT**

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- 4.2 Report of the Driving a Strong Economy Committee**  
**Council Member Williams, Chair**  
**No Report.**

- 4.3 Approval to award a contract for the Towers Lane Improvement Project.**

**Recommendation:** Reports on bids and award of contract for the Towers Lane Improvement Project (north of Aborn Road) to the low bidder, DeSilva Gates Construction, LP, in the amount of \$626,191, and approval of a 15 percent contingency in the amount of \$94,000. CEQA: Exempt, PP 02-03-046. Council District 7. SNI: West Evergreen. (Public Works/Transportation)  
**Deferred to 9/7/04.**

## **5 RECREATION & CULTURAL SERVICES**

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- 5.1 Report of the All Children Achieve Committee**  
**Council Member Yeager, Chair**  
**No Report.**

- 5.2 Approval of actions for animal limit and amnesty program.**

**Recommendation:**

- (a) Approval of an ordinance to amend Chapter 7.08, Section 7.08.595 of the San José Municipal Code to clarify the maximum number of dogs and cats permitted as a “per dwelling unit” limit and increase the limit to a maximum of five animals with no more than three adult dogs. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

**Ordinance No. 27240 passed for publication.**

- (b) Approval of an ordinance authorizing an Amnesty Program from October 15, 2004 through November 30, 2004, suspending all animal licensing citation activity, waiving late fees, and delaying the FY 04-05 increase in fees for unaltered dogs and cats until the completion of the proposed amnesty program. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

(Deferred from 6/15/04 – Item 5.7 and 8/17/04 – Item 5.2)

**Ordinance No. 27241 passed for publication.**

**Staff directed to: (1) return with a door-to-door canvassing progress report which focuses more on education than census, (2) report back in one year with the progress of that effort, and (3) to “grandfather-in” during the amnesty period, pet owners who are over the limit and want to license their animals.**

## **5 RECREATION & CULTURAL SERVICES**

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**5.3 Approval to amend the Loan Agreement with the American GI Forum of San José, the City of San José, and the County of Santa Clara.**

**Recommendation:** Adoption of a resolution authorizing the City Manager to negotiate and execute an amendment to the Loan Agreement among the American GI Forum of San José, the City of San José, and the County of Santa Clara, to modify terms and extend the maturity date of the loan in the amount of \$4,000,000, to December 31, 2004.  
CEQA: Not a Project. (Finance)

**Resolution No. 72297 adopted.**

**5.4 Recommendation to name two new parks.**

**Recommendation:**

- (a) As recommended by the Parks and Recreation Commission, name a new park located at the intersection of Tully Road and Kenoga Drive as the “Tully Community Ballfields.”
  - (b) As recommended by the Parks and Recreation Commission, name a new park located at the intersection of Lone Bluff Avenue and Pinto Drive as “Lone Bluff Park.”
- (Parks and Recreation Commission/City Clerk)  
(Deferred from 8/24/04 – Item 5.3)

**Approved.**

**5.5 Approval of to enter into Phase 2 of the master agreement for the Happy Hollow Park & Zoo Parks Bond Project.**

**Recommendation:**

- (a) Approval to proceed with the design phase of the Happy Hollow Park and Zoo Parks Bond Project; and
- (b) Approval of the first amendment to the master agreement for consultant services with Portico, Inc., for the Happy Hollow Park & Zoo Parks Bond Project, increasing the compensation by \$6,000,000 from \$1,500,000, for a total agreement amount not to exceed \$7,500,000.

CEQA: Not a Project. (Public Works/Parks, Recreation and Neighborhood Services)  
(Deferred from 8/24/04 – Item 5.4)

**Approved.**

## **6 TRANSPORTATION SERVICES**

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**6.1 Report of the Building Better Transportation Committee  
Council Member Cortese, Chair  
No Report.**

## **7 ENVIRONMENTAL & UTILITY SERVICES**

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### **7.1 Approval of actions related to the City's Stormwater Permit.**

**Recommendation:**

- (a) Authorization for the following submittals to the Regional Water Quality Control Board (Water Board) in conformance with the City's Stormwater Permit and pursuant to the Federal Clean Water Act:
  - (1) 2003-2004 Urban Runoff Management Plan Annual Report and certification; and
  - (2) Revised Urban Runoff Management Plan.
- (b) Acceptance of findings of December 2003 Water Board Stormwater Program Evaluation.
- (c) Direction to staff to continue participation in stakeholder meetings and other efforts to protect the City's interests with respect to the following emerging Stormwater Program issues:
  - (1) Mercury Total Maximum Daily Load (TMDL) for the San Francisco Bay; and
  - (2) Hydromodification Management Plan (HMP) for Santa Clara Basin Watershed.

CEQA: Not a Project. (Environmental Services)

**Approved.**

## **8 AVIATION SERVICES**

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## **9 PUBLIC SAFETY SERVICES**

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### **9.1 Review and acceptance of the Police Department's response to the 2003-2004 Santa Clara County Civil Grand Jury's report.**

**Recommendation:** Review and acceptance of the San José Police Department's response to the 2003-2004 Santa Clara County Civil Grand Jury's report entitled "Inquiry into Police Evidence Rooms in Santa Clara County." CEQA: Not a Project. (Police)

**Report accepted.**

## **10 JOINT COUNCIL/REDEVELOPMENT AGENCY**

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- Closed Session Report

- **Notice of City Engineer's Pending Decision on Final Maps**  
In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

**None.**

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

**None.**

- **Open Forum—**
  - 1) **Renee Godette spoke in support of keeping the San José Earthquakes in San José.**
  - 2) **Ross Signorino spoke about Hybrid vehicles and the possible benefits expanding the program in the County of Santa Clara.**
  - 3) **Marcia Miliman urged on protection from chemical health hazards.**
- **Adjournment**  
The Council of the City of San José adjourned in memory of Nancy Gable Heckman, wife of Ray Heckman; and in memory of Russell Ingman Hare, Jr. at 4:39 p.m.